

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MELISSA MARTINEZ,

Plaintiff,

vs.

No. 1:20-CV-00991-WJ-KRS

KILOLO KIJAKAZI, Acting
Commissioner of Social Security,

Defendant.

ORDER

THIS MATTER is before the Court upon Plaintiff's Stipulated Motion for Award of Attorney Fees Under the Equal Access to Justice Act. (Doc. 39). Having considered the motion, the Court finds that it is due to be **GRANTED**. It is therefore **ORDERED** that attorney fees are awarded under the Equal Access to Justice Act, 28 U.S.C. § 2412(d), payable to Plaintiff and delivered to Plaintiff's attorney in the amount of **\$6,313.00**. *See* 28 U.S.C. § 2412(d); *see also Astrue v. Ratliff*, 560 U.S. 586, 598 (2010) (EAJA fees are paid to the prevailing party, not the attorney). **IT IS FURTHER ORDERED THAT**, if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff. *See Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).



KEVIN R. SWEAZE
UNITED STATES MAGISTRATE JUDGE